

**STATE OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
BOARD OF REGISTERED NURSING MINUTES**

DATE: October 23, 2008

TIME: 9:07 AM

LOCATION: University of Phoenix
Ontario Learning Center.
3110 E. Guasti Road, Room 111
Ontario, CA 91761
800-888-1968 (phone)

PRESENT: LaFrancine Tate, Public Member, President
Susanne Phillips, MSN, RN, APRN-BC, FNP, Vice-President
Andrea Guillen Dutton, Public Member
Nancy Beecham, RNC, BS
Janice Glaab, Public Member

NOT PRESENT: Elizabeth O. Dietz, EdD., RN, CS-NP

ALSO PRESENT: Ruth Ann Terry, MPH, RN, Executive Officer
Heidi Goodman, Assistant Executive Officer
Stacie Berumen, Enforcement Manager
Christina Sprigg, Administration Manager
Norine Marks, DCA, Legal Counsel
Doreathea Johnson, Deputy Director, Legal Affairs
Carrie Lopez, Director
Scott Reid, Chief Deputy Director
Luis Farias, Deputy Director, Communications

Thursday, October 23, 2008

1.0 CALL TO ORDER

L. Tate, Board President, called the meeting to order at 9:07 am and had the Board Members introduce themselves.

2.0 OPEN FORUM

Carrie Lopez, Director of Department of Consumer Affairs came forward to speak to attendees and Board with the following statement:

"I felt it was important for me to be here today to address the critical issue of fingerprinting. As you know, fingerprinting of licensees provides us with an important tool to identify criminal behavior that may place consumers at risk. Despite the fact that the BRN was an early proponent of fingerprinting new applicants, there's a population of licensees that have been allowed to operate under the radar of the Board. Several of those licensees have recently garnered negative attention to the Board and this attention has

detracted from the work currently being done by the board to ensure consumer protection. This is not acceptable.

The people of California expect much more from us. They deserve no less. I know you share my desire that this never happens again. We must ensure that every tool available is being utilized and consumers have confidence in the qualifications and integrity of our licensees.

Today, the BRN becomes the first of DCA's Boards or Bureaus to impose fingerprinting on all licensees, regardless of when the first became licensed. In this way, the Board and its staff will reinforce their commitment to protecting the health and safety of consumers and to promoting quality registered nursing care in California.

You will set the example that others will follow. So I want to thank you for taking the lead on this issue. And I want to reiterate that the Department is here to support you in any way we can, for this consumer protection initiative, or any consumer protection initiative you may take up in the future."

3.0 REPORT ON BOARD MEMBERS' ACTIVITIES

L. Tate presented this report

Fran Tate attended the Nursing Scholarship Foundation and reviewed applications for scholarships.

4.0 EXECUTIVE OFFICERS' REPORT ON BOARD AND DEPARTMENT ACTIVITIES

R. Terry presented this report

1.0 Board's Update: Recent Media Coverage

The mission of the Board is to protect the health and safety of consumers by promoting quality registered nursing care in the State of California. The Board continues to be committed to consumer protection by ensuring that registered nurses are safe and competent practitioners. We take this mandate very seriously.

The BRN recently received adverse media attention in a number of newspapers. The articles identified licensed RNs who were convicted of crimes that had not been reported to the Board by the courts, employers, co-workers, or other sources. These RNs were issued licenses prior to the 1990 fingerprint requirement.

The Board licenses over 360,000 Registered Nurses in California. The vast majority of RNs are safe and competent practitioners who are practicing without any criminal or disciplinary actions taken against their license. The Board receives complaints on less than 1½ percent of all nurses licensed in this state.

In 1990, the California BRN was the first state in the nation to require fingerprints for all RN applicants, including exam applicants and out-of-state RNs seeking California licensure. Since implementing the fingerprinting requirement in 1990, the Board has fingerprinted more than 562,000 applicants seeking RN licensure in California.

The Board continually strives to put in place all mechanisms that strengthen consumer protection. We employ a number of methods to learn of convictions and other acts by RNs.

For example:

- In 1993 the Legislature required the courts to report to the appropriate licensing board all convictions for anyone who holds a professional license in the state and was convicted of a crime.
- Section 800 (et seq.) of the Business and Professions Code requires insurers to report RN malpractice settlements and arbitration awards to the Board.
- The Board receives complaints on RN convictions and practice violations from the public, employers, health care providers, and other governmental health agencies. The BRN has worked diligently to make it easy for anyone to file a complaint with our office, to check the status of a license, or ask questions using the Board's public information center or Web site.
- For out-of-state RN applicants, the Board utilizes the national nurse database, Nursys, to determine that the license is current and that no disciplinary action has been taken by other RN licensing boards. Also, the Board reports all of its disciplinary actions against California RNs to the Nursys national database to inform other state nursing boards.

How the Board Has Responded

The California Board of Registered Nursing has taken a number of steps to further strengthen our enforcement program.

1. With the support of the Department of Consumer Affairs, all renewal applications now include a question about criminal convictions. Both online renewals and paper-based renewals now ask RNs: "Since your last renewal, have you been convicted of, or pled nolo contendere, to any violation of the law in this or any other U.S. state or foreign country?" This conviction question was posted online on October 8, 2008, and the question was added to the paper renewal form that was mailed on October 18, 2008.
2. The next item on today's agenda will give the Board the opportunity to: "Approve/Not Approve Proposed Emergency Regulation Amending Section 1419, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination." The goal, should this agenda item be approved, is to develop an emergency regulation and submit the package to the Office of Administrative Law. This will give the Board the authority to retroactively fingerprint all RNs licensed prior to 1990 upon renewal. This fingerprint requirement will **not** apply to those RNs that maintain an inactive RN license or are actively serving in the military outside of the country; however, at the time of activating the RN license to a current active status the fingerprint requirement will apply.
3. The Board of Registered Nursing requested and has been given 8 new positions in the Enforcement Program that will provide the necessary infrastructure to act on all conviction information received from either the RN renewal candidate or from the criminal offender record information that will be received from the Department of Justice and the FBI.

I want to personally acknowledge the tremendous support that our Board has received from the State and Consumer Services Agency, the Department of Consumer Affairs, the nursing profession and healthcare industry. The Board has always been at the forefront of consumer protection, and we look forward to continuing our mission of public protection.

5.0 REPORT OF THE ADMINISTRATIVE COMMITTEE

L. Tate, Chairperson

5.1 Approve/Not Approved Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal.

The Board is proposing an emergency regulation change that requires the fingerprinting of all registered nurses who were licensed prior to the 1990 fingerprint requirement at the time of their biennial license renewal. In addition, the change will require that upon renewal, all licensees must disclose whether they have been convicted of any violation of law since they last renewed their license.

Upon the Board's approval of the proposed changes to the California Code of Regulation Sections, the Board will submit the emergency regulation package for review and approval to all the various approving offices within the Department and Agency. On November 3, 2008, the Board will send a notice to all stakeholders and interested parties announcing the emergency regulation is in process before filing with the Office of Administrative Law (OAL).

By mid-November, the Board will file the emergency regulation package to OAL and they have ten (10) working days in which to approve the emergency regulation package.

A copy of the proposed language was presented to the Board as well as the timeline for processing the emergency fingerprinting regulation package.

After review, the Board suggested an addition to the Language. Under 1419(b), second sentence, after "not previously fingerprinted..." add "by this board..."

Trisha Hunter and Hedy Dumble came forward with comments.

MSC: Phillips/Glabb that the Board approve Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal. 5/0/0

MSC: Phillips/Glabb that the Board approve the language for notice and hearing, regular rulemaking process, for the Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal. 5/0/0

MSC: Phillips/Glabb that the Board delegate staff to work with legal for changes to the Proposed Emergency Regulation Amending Sections 1419, 1419.1, 1419.3, Title 16, California Code of Regulations, Division 14, Article 2, Registration and Examination – concerning fingerprinting and disclosure of convictions upon renewal. 5/0/0

Meeting Adjourned: 10.11 am

Ruth Ann Terry M.P.H., R.N.
Ruth Ann Terry, MPH, RN
Executive Officer

LaFrancine W Tate
LaFrancine Tate
President